

EXHIBIT 5

IN RE:

GOOGLE ANTITRUST INVESTIGATION

60-516110-0009

**HIGHLY CONFIDENTIAL **

REMOTE VIDEOTAPED DEPOSITION OF
PHILIPP SCHINDLER

Wednesday, October 6, 2021

8:36 a.m. (PT)

Reported by:

Joan Ferrara, RMR, FCRR

Job No. 2021-813493

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whatever you want to do.

MR. NIERLICH: Whatever is most convenient for you, that's just fine.

THE WITNESS: Let's take a short break and I'll be back in 5 to 10.

THE VIDEOGRAPHER: Off the record at 2:51 p.m.

(Recess taken from 2:51 p.m. to 3:02 p.m.)

THE VIDEOGRAPHER: Back on the record at 3:02 p.m.

MR. NIERLICH: Seumas, could you upload Document W, please.

(Schindler Exhibit 17, E-mail, Bates GOOG-DOJ-09442889 to 890, remotely introduced and provided electronically to the reporter.)

BY MR. NIERLICH:

Q. We'll mark as Exhibit 17 a document with Document Control Nos. GOOG-DOJ-09442889 to 890.

Have you received that document, Mr. Schindler?

A. It starts with -- from Philipp,

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A. Well, I don't have a recollection of what motivated me to send something to Mr. -- to Sundar over two years ago. Like I really don't have that level of memory or capacity. But it touches a lot of the PAs he's responsible for, especially Chrome. So I can only guess that I assume that this is relevant for him.

Q. And you understand that at least in part this article is identifying potential difficulties for Google Ad Tech, certain Google Ad Tech competitors as a result of privacy changes, is that right?

A. That seems to be what the article is implying somewhere towards the end, I think.

Q. And do you believe those concerns are accurate?

A. Can you describe what those concerns are a bit more precisely, please?

Q. Sure.

This article says that -- and I'm referring now towards the end of the article -- that changes could be damaging

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from me to Sundar, right, on 5/6/2019?

Q. That is the document, yes.

A. Yes.

Q. And Mr. Schindler, is this a true and correct copy of an e-mail you will sent Mr. Pichai on or around May 6, 2019?

A. So just reading the header of it, it seems like it.

Q. Please take whatever time you need to review the document, but my question will be, why did you send this document on to Mr. Pichai?

A. Yeah, I would need to have to read it. So give me a minute, please.

Okay. Sorry it look a little long. It's a long article. Okay, so what's your question, please?

Q. To restate the question, why did you send this article on to Mr. Pichai?

A. Because -- not that I remember the reason -- it's not that I remember the reason at the time. My guess at the moment -- can I guess?

Q. I'd like your best recollection.

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to Google competitors that use cookies or resell data collected via cookies to companies hoping to better target ads.

Do you see that?

A. Yes, at the end, I see that.

Q. And I'm asking if you agree with that assessment from this article?

A. I'm not sure I would agree with that.

Q. In what way do you disagree?

A. Because there is a -- if we step -- if we step back a little bit, there is a strong push by privacy regulators across the world, from what I understand, to basically get to a more privacy friendly ecosystem, or however you want to describe it. And they are very -- they're looking very closely or have closely signaled, from what I understand, that cookies is not part of a privacy friendly ecosystem, or their understanding of a privacy friendly ecosystem.

So if you think about the long-term and you think about an ecosystem

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that is healthy over many, many years to come and privacy regulators are going against the notion of cookies, then you probably have to think about other means that are more privacy safe to replace partially or fully some of the functionality of cookies for players in the ecosystem.

So I feel the privacy advocates have a very, very strong voice here. So if privacy regulators exert that level of pressure on the ecosystem over time, I don't think the ecosystem can successfully resist or maybe even should successfully resist that pressure. And you could make the case that in the long run in the ecosystem is better off by finding solutions that are more privacy safe and work with the approval of the privacy regulators.

Q. Are there any more privacy safe methods that you're specifically thinking of when you say that?

A. Well, we have -- we have

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introduced technology recently. I'm not exactly sure the timing, the date -- that is trying to take a first stab at some of those things, right. We called it publicly privacy sandbox, and there is a bunch of technologies underneath that I can't explain in all the details, [REDACTED]

[REDACTED]

Q. Okay. You can set aside Exhibit 17. Thank you, Mr. Schindler.

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We talked briefly earlier about potential acquisitions. Is Google currently considering any potential divestitures with respect to any of Google's Ad Tech products or services?

MR. MAHR: And again, I'll instruct the witness not to respond to the question to the extent it requires you to reveal anything you've learned as a result of attorney-client communications or attorney work product.

A. So this is something, like this overall topic that you're raising, I've only discussed under privilege. So I wouldn't be comfortable sharing.

Q. Okay.

So to be clear on the record, are you declining to answer the question on the basis of privilege?

A. I guess that's the legal way of saying this, yes.

MR. MAHR: You're allowed to decline on the basis of my instruction

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not to respond to the extent it would require you to divulge privileged information.

He's asking you if you will be following my instruction.

A. Yeah, I will follower Rick's instructions, yeah.

Q. Okay. Then I anticipate that Mr. Mahr may have other objections to raise as to questions I will be asking. So I will ask the questions. And please pause for a moment before you respond, in case he wishes to do so. And if he doesn't, then I would look forward to your answer. And if he does, then please let us know whether you're following his instruction or not. Okay?

A. Yes, I'll do that.

Q. Has Google considered any divestitures with respect to any of Google's Ad Tech products or services within the LaSala three years?

MR. MAHR: Same objection and same instruction. To the extent you

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can answer without divulging privileged information, you're welcome to do so. But to the extent responding would require you to divulge privileged information, the instruction is not to do so.

A. Yeah, I would follow Eric's advice on this one.

Q. What is Project Sunday?

MR. MAHR: Same objection and same instruction.

A. I would follow his instructions here as well.

Q. Who initiated Project Sunday?

MR. MAHR: I think you can answer who initiated the project, if you know.

A. I'm actually not quite sure about this.

Q. Was Project Sunday initiated by someone in the legal department, or in a business unit, or otherwise?

A. Again, I'm not quite sure about it. I'm not -- I'm not sure exactly.

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Q. When did you first learn of Project Sunday?

A. I'm not sure I can pinpoint a specific date. I don't remember a specific date. I mean, it wasn't many, many years ago, but I don't remember exactly, sorry.

Q. Okay.

Can you estimate generally when you first learned of Project Sunday?

A. No, no, I couldn't. I couldn't come very close.

Q. Who is in charge of Project Sunday on the executive level?

A. In charge or participating in it? It's very difficult to define what "in charge" means at Google.

Q. Well, to the extent that anyone had ultimate responsibility for Project Sunday on the executive level, was ultimately in charge, I'm asking who that person was?

A. I would not be able to identify that person. That's not how Google operates.

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Q. Can you expand on that? What do you mean "that's not how Google operates"?

A. Would you include on the executive level our CEO -- just excuse me for the question, but would you include our CEO, Sundar Pichai?

Q. Let's say anyone in the Google leads group.

A. Yeah, I don't think there is a specific person that is in charge. This is not our operating structure.

[REDACTED]

So it's very difficult to say who is actually in charge of something in the sense of how you defined it.

Q. Who was responsible for Project Sunday on a day-to-day basis?

MR. MAHR: I'm going to object again and instruct the witness not to answer to the extent it requires him

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to divulge privileged information.

I just note for the record that the Department has asked us a lot of these questions and we've provided answers in writing. The Department is also pursuing, I understand, a 30(b)(6) type deposition on this. And because the company is engaging with the Department on these issues, in that context I don't think it makes sense for Mr. Schindler to be put on the spot in answering these questions when we can't do the kind of careful privileged analysis with each question that we can do and are doing in response to those written requests that you've made.

MR. NIERLICH: Respectfully, Mr. Mahr, Mr. Schindler is here for his deposition. We're going to ask him questions. We do appreciate that you may instruct him not to answer and that he may not answer, and if he does so, then we will proceed accordingly.

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ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: In Re: Google Antitrust litigation

Dep. Date: October 6, 2021

Deponent: Philipp Schindler

CORRECTIONS:

Page Line	Changes or Corrections and Reasons
16:5, 28:11, 28:14, 28:17, 28:21, 41:18, 41:20, 41:24, 73:18-19, 74:18, 76:2, 80:25-81:2, 84:6, 107:16, 108:24, 115:19, 115:24-25, 116:9-10, 116:13, 116:18, 116:19, 116:21-22, 145:7, 145:10, 156:10, 156:11, 156:13, 159:2, 159:4, 208:18, 209:2, 209:7, 219:5, 219:18, 220:16, 220:21, 221:24-25, 222:18, 224:7, 224:22, 225:2, 225:12, 227:10, 227:18, 227:24, 231:12, 231:13, 235:6, 236:22, 251:20, 252:12, 254:8, 255:8, 256:5	The words “Ad Tech” should read “ad tech” (Transcription Error)
22:14, 22:16, 22:19, 23:6, 24:9	The words “Google AdManager” should read “Google Ad Manager” (Transcription Error)
123:15, 123:25, 133:2, 133:13	The word “AdManager” should read “Ad Manager” (Transcription Error)

- 221:21-23 The sentence “We first resolved it to what I mentioned before on slow tech or bad tech, right.” should read “We -- what I mentioned before on slow tech or bad tech, right.” (Transcription Error)
- 222:6 The word “can” should read “can’t” (Transcription Error)
- 222:12 The word “used” should read “use” (Transcription Error)
- 222:25 The word “I” should read “you” (Transcription Error)
- 226:21 The word “for” should read “on” (Clarity)
- 227:5 The words “forced our product folks --” should be inserted after “basically --” and before “basically like do some changes.” (Transcription Error)
- 230:6 The word “will” should be removed (Transcription Error)
- 233:17 The words “in the long run in the ecosystem” should read “in the long run the ecosystem” (Transcription Error)
- 236:7 The word “Rick’s” should read “Eric’s” (Transcription Error)
- 257:25 A period should be inserted at the end of the words “This concludes today’s deposition” (Transcription Error)

I have inspected and read my deposition and have listed all changes and corrections above, along with my reasons therefor.

Date: January 4, 2022

Signature: 